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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/875,949	06/08/2001	Imants R. Lauks	PAT 506-2	1788
26123	7590	02/09/2004	EXAMINER	
BORDEN LADNER GERVAIS LLP WORLD EXCHANGE PLAZA 100 QUEEN STREET SUITE 1100 OTTAWA, ON K1P 1J9 CANADA			LAU, TUNG S	
			ART UNIT	PAPER NUMBER
			2863	

DATE MAILED: 02/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/875,949

Applicant(s)

LAUKS, IMANTS R.

Examiner

Tung S Lau

Art Unit

2863

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 June 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 19 and 20 is/are allowed.
- 6) ☐ Claim(s) 1-10, 12, 16 and 18 is/are rejected.
- 7) ☒ Claim(s) 11, 13-15, 17 and 21-25 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4. 6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

- a. Claims 1, 18, 2, 3, 5, 6, 7, 8, 9, 10, 12, 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jina (U.S. Patent 6,066,504) in view of Ringrose (U.S. Patent 4,149,405).

Regarding claim 1:

Jina discloses a point-of-care blood measurement system for performing in-vitro diagnostic chemical analysis of a sample, comprising a diagnostic card reader for receiving a raw sensory signal from a diagnostic card and for providing an amplified analog output signal directly related to the raw sensory signal (Col. 3-4, Lines 24-17), the raw sensory signal being dependent on a concentration of a chemical species in the sample (Col. 3-4, Lines 24-17), a data acquisition unit for converting the output signal into a digital signal (Col. 3-4, Lines 24-17); and a general-purpose computer for analyzing the digital signal and producing an analysis result representative of the chemical species concentration in the sample (Col. 5-6, Lines 64-21).

Regarding claim 18:

Art Unit: 2863

Jina discloses a point-of-care blood measurement system for performing in-vitro diagnostic chemical analysis of a sample, comprising a diagnostic card reader for receiving a raw sensory signal from a single use blood diagnostic card and for providing an analog output signal directly related to the raw sensory signal (Col. 3-4, Lines 24-17), the raw sensory signal being dependent on a concentration of a chemical species in the sample, a data acquisition unit for converting the analog output signal into a serial digital signal and including amplification means for amplifying the raw analog sensory signal, and sensor multiplexing means for generating an output including signals in addition to the raw signal (Col. 3-4, Lines 24-17); and a general-purpose computer for analyzing the digital signal and producing an analysis result representative of the chemical species concentration in the sample, the computer having a serial input port for connection to at least one data acquisition unit (Col. 5-6, Lines 64-10).

Regarding claims 2, 3, 5, 6, 7, 8, 9, 10, 12, 16:

Jina discloses a modify smart card 9(fig. 1, unit 36, 22; amplification signal output of additional signal (Col. 3-4, Lines 50-8, (Col. 5-6, Lines 64-10); data acquisition card (Col. 5-6, Lines 64-10, fig. 2, unit 34); data acquisition is in the same housing (fig. 2, unit 36, 30); plurality of card)fig. 2, unit 34, fig. 1, unit 14); single computer to connect to cards ((fig. 2, unit 34, fig. 1, unit 14); can connect remotely (fig. 2, unit 34); analysis carried out only in general purpose computer by data calculation (Col. 5-6, Lines 64-10, fig. 2, unit 32, 30, fig. 8-11); heating the sample (Col. 5, Lines 30-55); quality control mean (Col. 3, Lines 24-62, fig. 8,

Art Unit: 2863

9); include an on/off signal (Col. 3-4, Lines 50-8, Col. 5-6, Lines 64-10); include a housing (fig. 1); software means to process data (Col. 5-6, Lines 64-10, fig. 8-10).

Jina does not disclose the analog sensory signal, Ringrose discloses the analog sensory signal in order to draw graph indicating the evolution of the process (Col. 2, Lines 8-12).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Jina to have the analog sensory signal taught by Ringrose in order in order to draw graph indicating the evolution of the process (Col. 2, Lines 8-12).

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112 that form the basis for the rejections under this section made in this Office action:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 4 is rejected under second paragraph of 35 U.S.C. 112.

The claims contain the trademark/trade name PCMCIA and PC. Where a trademark or trade name is used in a claim as a limitation to identify or describe a particular material or product, the claim does not comply with the requirements of 35 U.S.C. 112, second paragraph. See *Ex parte Simpson*, 218 USPQ 1020 (Bd. App. 1982). The claim scope is uncertain since the trademark or trade name

cannot be used properly to identify any particular material or product. A trademark or trade name is used to identify a source of goods, and not the goods themselves. Thus, a trademark or trade name does not identify or describe the goods associated with the trademark or trade name. In the present case, the trademark/trade name is used to identify/describe communication standard and, accordingly, the identification/description is indefinite

Claim Objections

3. Claims 15, 11, 13, 14, 17, 21-25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all the limitation of the base claim and any intervening claims.

The following is an examiner's statement of reasons for allowance: prior art fail to teach provide a single clock signal to all readers by way of data acquisition card, the heating unit is control in software control, the switch is mechanical, the transmitter is wireless digital communication.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Art Unit: 2863

Allowable Subject Matter

4. Claims 19, 20 are allowed.

Reasons for Allowance

5. The following is an examiner's statement of reasons for allowance:

Independent claim 19 contains allowable subject matter. None of the prior art of record shows or fairly suggests the claimed invention.

Regarding claim 19:

The primary reason for the allowance of claim 19 is the inclusion of the point-care blood measurement in vitro chemical analysis including signal converting analog output to a radio frequency digital signal. It is these features found in the claim, as they are claimed in the combination, that has not been found, taught or suggested by the prior art of record which makes this claim allowable over the prior art.

Claim 20 is allowed due to their dependency on claim 19.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Art Unit: 2863

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tung S Lau whose telephone number is 703-305-3309.

The examiner can normally be reached on M-F 9-5:30.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Barlow can be reached on 703-308-3126. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-5841 for regular communications and 703-308-5841 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

TC2800 FAX Telephone Numbers: 703-872-9306

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TL


John Barlow
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